

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)
ex rel. [UNDER SEAL])
Plaintiffs) Civil Action No. 3:09-CV-430
)
)
v.) VARLAN/GUYTON
[UNDER SEAL],)
)
)
Defendant.)
)
_____)

FILED UNDER SEAL

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

JUN 10 2013

Clerk, U. S. District Court
Eastern District of Tennessee
At Knoxville

UNITED STATES OF AMERICA)
ex rel. STEVEN M. PETERS and)
DOUGLAS B. GRAY II,) Civil Action No. 3:09-CV-430
Plaintiffs,) VARLAN/GUYTON
v.)
ABBOTT LABORATORIES, INC.)
Defendant.)

**NOTICE OF THE UNITED STATES THAT
IT IS NOT INTERVENING AT THIS TIME**

In its last Order, dated May 31, 2013, the Court indicated that the Government must make its intervention decision on or before June 10, 2013, that no further extensions of time would be granted, and that the case will be unsealed upon the expiration of such time. The Government's investigation has not been completed and, as such, the United States is not able to decide, as of the Court's deadline, whether to proceed with the action. Accordingly, the United States hereby notifies the Court that it is not intervening at this time. However, the Government's investigation will continue.

Although the United States is not intervening at this time, it respectfully refers the Court to 31 U.S.C. § 3730(b)(1), which allows the relators to maintain the action in the name of the United States. The United States requests that the relators be granted at least 120 days within which to serve their amended complaint upon the defendant. *See, e.g., United States ex rel. White v. Gentiva Health Services*, No. 3:10-CV-394 (Order, April 12, 2013, E.D. Tenn.); *United States ex rel. Combs v. MatureCare of Standifer Place, LLC*, No. 1:12-cv-116 (Order, March 1, 2013, E.D. Tenn.). Please note that, pursuant to 31 U.S.C. § 3730(b)(1), the "action may be

dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." Therefore, the United States requests that, should either the relators or the defendant propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval.

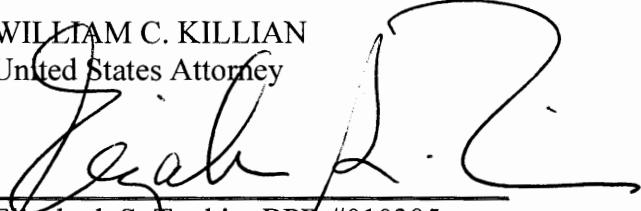
Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served upon it; the United States also requests that orders issued by the Court be sent to the Government's counsel. The United States reserves its right to order any deposition transcripts, to intervene in this action, for good cause, at a later date, and to seek the dismissal of the relators' action or claim. The United States also requests that it be served with all notices of appeal.

Respectfully submitted,

STUART F. DELERY
Acting Assistant Attorney General

WILLIAM C. KILLIAN
United States Attorney

By:


Elizabeth S. Tonkin, BPR #010305
Assistant U.S. Attorney
Ben D. Cunningham, BPR # 030122
Special Assistant U.S. Attorney
800 Market St., Suite 211
Knoxville, TN 37902
(865) 225-1654
betsy.tonkin@usdoj.gov

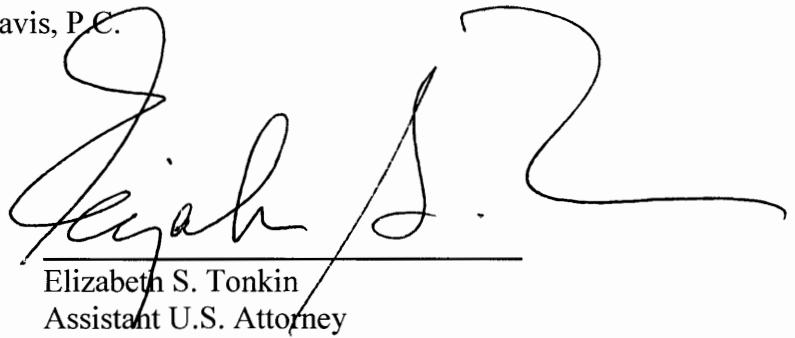
MICHAEL D. GRANSTON
ALAN E. KLEINBURD
ADAM J. SCHWARTZ
Attorneys, Civil Division
United States Department of Justice
P.O. Box 261, Ben Franklin Station
Washington, D.C. 20044
(202) 616-0539
Adam.Schwartz2@usdoj.gov

ATTORNEYS FOR THE UNITED STATES

CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2013, a true and correct copy of the foregoing Notice of the United States was served via email and first class mail, postage prepaid, to the following:

Stephen A. McSween
Cheryl G. Rice
Reuben N. Pelot IV
Egerton, McAfee, Armistead & Davis, P.C.
P. O. Box 2047
Knoxville, TN 37901
Attorneys for Relators



Elizabeth S. Tonkin
Assistant U.S. Attorney